

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS VINCENT LOVATO, SARA LOVATO as next of kin to CHRISTIE AND CHRISTIAN LOVATO et al

DEFENDANTS ALVARADO CONCEPTS, LLC

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
The Law Office of Lynn Coyle, PLLC, Christopher Benoit
2515 N. Stanton, El Paso, TX 79902
(915) 532-5544

Attorneys (If Known)
see attached

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act

Click here for: Nature of Suit Code Descriptions.

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C 201 et seq

VI. CAUSE OF ACTIONBrief description of cause:
Violations of Fair Labor Standards Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND S**CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/25/2018

Stanley K. Kotovsky, Jr.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

TINNIN LAW FIRM
a professional corporation
Stanley K. Kotovsky, Jr.
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and

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COUNSEL for DEFENDANT
ALVARADO CONCEPTS, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**VINCENT LOVATO and SARA LOVATO,
As Next of Kin to CHRISTIE LOVATO
and CHRISTIAN LOVATO,
Individually and On Behalf of All Others
Similarly Situated,**

Plaintiff,

vs.

No.

ALVARADO CONCEPTS, LLC,

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant Alvarado Concepts, LLC (“Defendant”) removes this case to the United States District Court for the District of New Mexico. The grounds for removal are:

1. Plaintiffs filed a civil action in the Fourth Judicial District Court, County of San Miguel, State of New Mexico, captioned Vincent Lovato and Sara Lovato As Next of Kin to Christie Lovato and Christian Lovato, Individually and On Behalf of All Others Similarly Situated v. Alvarado Concepts, LLC, Case No. D-412-CV-2017-00811.
2. In accordance with 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Defendant are attached hereto as the following exhibits:

Exhibit A – Summons

Exhibit B – Complaint

3. Plaintiffs' Summons and Complaint were served on Defendant's registered agent via certified mail on December 28, 2017. Defendant had not received a copy of the Complaint prior to December 28, 2017.

4. Defendant is filing this Notice of Removal within thirty (30) days of the first day of service of the Summons and Complaint. Thus, under 28 U.S.C. § 1446(b), Defendant's Notice of Removal is timely.

5. Pursuant to 28 U.S.C. § 1331, the district courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States.

6. This is a case over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 and which may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441(b), in that it is a civil action that arises under the laws of the United States.

7. Specifically, Plaintiffs have alleged violations of federal law under the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. ("the FLSA").

8. In the Complaint, Plaintiffs allege that, "Defendant violated and is violating the provisions of Sections 6 and 7 of the FLSA, 29 U.S.C. §§ 206-7, and 215(a)(2)" based on allegations of unpaid overtime, and that Plaintiffs have been damaged based on these alleged violations of federal statutory law. (See, Complaint, ¶¶ 26-27).

9. Further, pursuant to 29 U.S.C. § 216(b), Plaintiffs will be seeking collective action certification for a purported opt-in class of plaintiffs who were allegedly subjected to Defendant's policies and conduct in violation of the FLSA. (See, Complaint, ¶¶ 21-24).

10. Based on the foregoing, Plaintiff's Complaint and civil action "arises under the laws of the United States" and may be properly removed to federal court pursuant to 28 U.S.C. § 1441(b).

11. Defendant will contemporaneously file a true and correct copy of this Notice of Removal in the Fourth Judicial District Court for the County of San Miguel, State of New Mexico. A copy of same will be served upon Plaintiffs through their attorney of record as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant requests that the above-described action pending in the Fourth Judicial District Court for the County of San Miguel, State of New Mexico, be removed to the United States District Court for the District of New Mexico.

Date: January 25, 2018

Respectfully submitted,

TINNIN LAW FIRM
a professional corporation

By:/s/ Stanley K. Kotovsky, Jr.
Stanley K. Kotovsky, Jr.
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and

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jhux@fisherphillips.com
COUNSEL for DEFENDANT
ALVARADO CONCEPTS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing
pleading was mailed on this 25th day of
January, 2018, to:

Christopher Benoit
THE LAW OFFICE OF LYNN COYLE, P.L.L.C.
2515 North Stanton
El Paso, Texas 79902

Stanley K. Kotovsky, Jr.
Stanley K. Kotovsky, Jr.